

Serial No.: 10/708,410

Remarks/Arguments

Claims 1-39 were in the application as filed. Applicants have amended claims 1, 11, and 19. Applicants have cancelled claims 5-10, 13-18, 20-22 and 24-26. Upon entry of this amendment, claims 1-4, 11, 12, 19, 23, and 27-39 will be pending in this application. Claims 27-39 stand allowed.

Applicants note that the Examiner has allowed claims 27-39. The Applicants greatly appreciate the Examiner's kind attention and willingness to move this application forward towards allowance.

In the most recent office action, the Examiner has rejected claims 1-5, 7, 8, 10-13, 15, 16, 18-20, and 22-26 under 35 U.S.C. § 102(e) as being anticipated by published U.S. Patent Application 2005/002025 to Enger et al. ("Enger"). Applicants point out that in order for a rejection of a claim in view of a reference under section 102 to stand, each and every recitation of the claim must be found in the reference. In at least some embodiments of their invention, the operating mode of the mobile terminal is determined from its physical orientation in space as determined by an accelerometer. Enger is silent as to the use of an accelerometer, and by contrast only discloses magnetic and mechanical switching devices that sense when certain parts of the mobile terminal are in proximity to other parts, or otherwise open or closed. Independent claims 1, 11, and 19 have been amended to recite this use of an accelerometer. These recitations are supported in Fig. 3 and in paragraphs [0020] and [0025] of the specification. Applicants submit that claims 1, 11, and 19 as amended are patentably distinguishable from Enger for at least this reason.

Applicants have cancelled some dependent claims for consistency with the newly amended independent claims discussed immediately above. All remaining non-allowed dependent claims incorporate the above-discussed recitation through their dependence from amended claims and are patentably distinguishable from Enger for at least these same reasons.

In the office action, the Examiner rejected claims 6, 9, 14, 17, and 21 as obvious in view of Enger in combination with published U.S. Patent Application 2004/0027474 to Aoyama et al. While not necessarily agreeing with the Examiner, these claims have been cancelled herein, rendering this rejection moot.

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Applicants submit that they have responded to all concerns raised by the Examiner with respect to the non-allowed claims, and that this application as amended is in condition for allowance. Reconsideration of the application as amended is hereby requested.

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